- 3. I spoke with Ms. Perez the next day by telephone and recounted the efforts CableAmerica had made during the preceding months to determine whether Times Mirror would sell the ASPN programming service to CableAmerica. I then asked Ms. Perez whether Times Mirror would agree to sell that service to CableAmerica. Ms. Perez told me that Times Mirror was still evaluating CableAmerica's request.
- 4. I then stated that since Times Mirror was providing the ASPN programming service to CableAmerica's competitor in Mesa, Dimension Cable, its refusal to provide that service to CableAmerica was plainly in violation of new section 628 of the Communications Act. I further stated that the Act afforded only limited grounds on which Times Mirror might refuse to do so:

 (i) if Times Mirror had an exclusive contract to distribute ASPN programming to Dimension Cable that was entered into on or before June 1, 1990, or (ii) if that contract could otherwise be shown to be in the public interest as defined in the statute.
- 5. Ms. Perez did not state whether Times Mirror had an exclusive contract with Dimension Cable, whether any such contract was "grandfathered" under the Act, or whether such contract otherwise served the public interest.
- 6. I requested that Ms. Perez inform me once Times Mirror had decided whether it would sell the ASPN service to CableAmerica, but have not heard further from her or anyone else from Times Mirror.

Pursuant to 47 C.F.R. § 1.16, I declare under penalty of perjury that the foregoing is true and correct. Executed on January 21, 1993.

David O. Stewart

TBS01321.CA



June 23, 1992

Dear Affiliate:

To maintain essential levels of programming and marketing investments that will ensure future revenue growth for HBO and cable operators, Home Box Office, Inc. will increase HBO's wholesale rate card by 5.5% effective January 1, 1993.

As you know, HBO continues to be the most-watched cable network in America in prime time and total day. Last year, cable operators realized revenues from selling HBO that far exceeded what any other cable network contributed to their bottom line. But those achievements have their attendant costs. Studio license fees for first-run movies, national image advertising, Big Event promotions, media costs for stepped-up DRTV, print and radio -- all of these expenses have increased. Therefore, a 1993 rate increase is necessary in order to ensure the continued success of our programming and marketing investment in both HBO and cable.

Here's a summary of the enclosed 1993 rate card:

- A 5.5% HBO rate increase will take effect 1/1/93.
- HBO's volume discount and performance discount structures -- which we're significantly enhanced, most recently for the 1992 rate card -- will remain unchanged.
- The maximum rate an owner will pay is \$6.22 for each HBO subscriber.
- Wholesale rates for hotel/motel, bulk-billed HBO subscribers and second sets will remain unchanged.

During 1993, HBO will be offering a unique Marketing Assistance Program to qualifying affiliates with fewer than 20,000 primary subscribers. Complete details about the qualifying criteria for HBO's Marketing Assistance Program will follow under separate cover.

You can be sure HBO is absolutely committed to investing in the future of our business and maintaining its position as the cable industry's leading brand. By working together, we will ensure continued growth of the cable business.

Sincerely

Robert S. Grassi Senior Vice President Affiliate Relations



June 23, 1992

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear HBO Affiliate:

We refer to the HBO Service Affiliation Agreement between your company and Home Box Office, Inc., as amended and supplemented to date; alternatively, if no such Affiliation Agreement is currently in effect, then we refer to our current standard HBO Service Affiliation Agreement which, pursuant to our understanding, shall govern your distribution of the HBO programming service until such time as we enter into a formal written agreement. The HBO Service Affiliation Agreement governing your distribution of the HBO programming service (i.e., the executed Affiliation Agreement between us or the current standard Affiliation Agreement, as applicable) is hereinafter referred to as the "Agreement".

Pursuant to the Agreement, we hereby notify you of a change in the HBO Service Charge (as defined in the Agreement) effective as of January 1, 1993. The new HBO Service Charge shall be determined in accordance with the provisions set forth in the attached schedule.

All other terms and conditions of the Agreement shall remain unaltered and in full force and effect.

Very truly yours,

HOME BOX OFFICE, INC.

By:

Robert S. Grassi Senior Vice President

HBO SERVICE CHARGE RATES (Effective January 1, 1993)

The following are the HBO Service Charge rates effective as of January 1, 1993.

1. Primary Set Charges: The HBO Service Charge for HBO Subscribers (other than Hotels, Bulk-Billed HBO Subscribers, Institutions and HBO Subscribers served directly by satellite to the individual home) receiving the HBO Service on one television set shall be determined as follows:

RATE TABLE

If the total of applicable Subscription Service Charges during a month for an HBO Subscriber is:	The monthly HBO Service Charge for that HBO Subscriber for that month is:
\$7.00 or less	\$6.29
\$7.01 to \$8.00	\$6.29 plus 53% of Charges over \$7.00
\$8.01 to \$9.00	\$6.82 plus 25% of Charges over \$8.00
\$9.01 to \$12.00	\$7.07 plus 20% of Charges over \$9.00
\$12.01 to \$13.00	\$7.67 plus 25% of Charges over \$12.00
\$13.01 or more	\$7.92 plus 53% of Charges over \$13.00

2. Volume Discount: Unless Affiliate elects the performance discount set forth in the Performance Discount Table below, for any month in which the Cable Television Systems serve an aggregate of 20,000 or more HBO Subscribers, the total amounts payable to HBO as HBO Service Charges for all of the Cable Television Systems shall be discounted by the applicable percentage set forth in the following table:

VOLUME DISCOUNT TABLE

HBO Subscribers is:	The volume discount is:
20,000 to 34,999	5%
35,000 to 49,999	10%
50,000 to 74,999	15%
75,000 to 99,999	17.5%
100,000 or more	20%

3. Performance Discount: (a) Subject to the terms and conditions set forth below, at Affiliate's written election (which, if made, shall be applicable to all of Affiliate's Cable Television Systems), for any month in which the number of HBO Subscribers in any Cable Television System is twenty-five percent (25%) or more of the number of Basic Cable Subscribers (as defined below) then served by that Cable Television System, the HBO Service Charges payable for such Cable Television System for such month shall be discounted by the applicable percentage set forth below in the Performance Discount Table. Affiliate shall not be entitled to any volume discount for any month in which the performance discount election is in effect (including a month in which none of Affiliate's Cable Television Systems qualifies for a performance discount).

PERFORMANCE DISCOUNT TABLE

Percentage of Basic Cable Subscribers which are HBO Subscribers	Performance Discount
25%-29.9%	10%
30%-34.9%	13%
35%-39.9%	17.5%
40%-44.9%	20\$
45%-54.9%	25%
55% or more	30%

- (b) Affiliate's election to receive any such performance discount shall be made by sending written notice to HBO's Revenue Accounting Department (1114 Avenue of the Americas, 10th Floor, N.Y., N.Y. 10036) on a form provided by or acceptable to HBO. Such election shall become effective in the first full month following HBO's receipt of Affiliate's election form and shall remain in effect until such time as Affiliate gives written notice to HBO's Revenue Accounting Department that it wishes to terminate the election, provided, however, that said election shall remain in effect for a minimum of twelve (12) consecutive months.
- (c) In accordance with Affiliate's monthly subscriber reporting requirements, Affiliate shall supply to HBO, for each Cable Television System, the number of HBO Subscribers and the number of Basic Cable Subscribers served by each Cable Television System on the first and last days of each month. HBO may, at its option, elect to have such information supplied by Affiliate's independent billing service by so informing Affiliate. In addition to any other remedies that HBO may have, if for at least two (2) consecutive months, Affiliate fails to supply the information required pursuant to this subparagraph, HBO may terminate Affiliate's performance discount effective as of the month

following the last month for which such information was supplied to HBO.

- (d) For purposes of calculating the applicable monthly performance discount, the number of Basic Cable Subscribers in each Cable Television System shall be determined by adding the number of Basic Cable Subscribers on the first and last days of the month and dividing the resulting sum by two (2). The term Basic Cable Subscriber shall mean any party to whom, at the time in question, Affiliate is providing basic cable television service.
- 4. Calculation of Volume and Performance Discount: In calculating the volume or performance discount to which Affiliate may be entitled under paragraph 2 or 3 above, the following shall apply:
- (a) No volume or performance discount shall apply to HBO Service Charges for Hotel Rooms or Bulk-Billed HBO Subscribers. However, notwithstanding anything to the contrary contained herein, the number of Hotel Rooms and Bulk-Billed HBO Subscribers shall be included in the number of HBO Subscribers and Basic Cable Subscribers for purposes of calculating the applicable volume or performance discount.
- (b) No volume or performance discount shall apply to HBO Service Charges for Second Sets (as defined below) or HBO Subscribers served directly by satellite to the individual home ("TVRO Subscribers") or for distribution of the HBO Service to Institutions pursuant to a separate agreement with HBO. Notwithstanding anything to the contrary contained herein, neither Second Sets, TVRO Subscribers nor the number of applicable units in such Institutions shall be included in the number of HBO Subscribers and Basic Cable Subscribers for purposes of calculating the applicable volume or performance discount.
- 5. Minimum HBO Service Charge \$4.82: If in any month Affiliate's weighted average HBO Service Charge for HBO Subscribers other than Second Sets, Hotels, Bulk-Billed HBO Subscribers, Institutions and TVRO Subscribers ("HBO Primary Subscribers"), after taking into account any applicable discounts, would result in a payment to HBO of less than \$4.82 for each HBO Primary Subscriber served by Affiliate in all Cable Television Systems, as computed on a company-wide basis, then for that month, Affiliate's aggregate payment to HBO for HBO Primary Subscribers shall be an amount equal to \$4.82 multiplied by the total number of HBO Primary Subscribers in all Cable Television Systems.
- 6. Maximum HBO Service Charge \$6.22: If in any month (a) Affiliate's weighted average Subscription Service Charge is \$13.00 or below, as computed on a company-wide basis, and (b) Affiliate's weighted average HBO Service Charge for HBO Primary Subscribers, after taking into account any applicable discounts, would result in a payment to HBO of more than \$6.22 for each HBO Primary Subscriber served by Affiliate in all Cable Television Systems, as computed on

a company-wide basis, then for that month, Affiliate's aggregate payment to HBO for HBO Primary Subscribers shall be an amount equal to \$6.22 multiplied by the total number of HBO Primary Subscribers in all Cable Television Systems. If Affiliate's weighted average Subscription Service Charge (computed on a company-wide basis) exceeds \$13.00, then the \$6.22 Maximum HBO Service Charge shall not apply to any of Affiliate's Cable Television Systems.

. . . .

- 7. HBO Service Charge for Second Sets: The HBO Service Charge payable in respect of the reception of the HBO Service by an HBO Subscriber (other than Hotels, Bulk-Billed HBO Subscribers, Institutions and TVRO Subscribers) on more than one television set (each, a "Second Set") shall equal twelve percent (12%) of the total amount charged by Affiliate to such HBO Subscriber for reception of the HBO Service on each Second Set. No Second Set charge shall be payable for Hotels, Bulk-Billed HBO Subscribers, Institutions or TVRO Subscribers. Second Sets previously may have been referred to as "Multiple Connections".
- 8. <u>Hotel Rooms</u>: The HBO Service Charge for Hotel Rooms shall be \$3.00 per Room in each Hotel, multiplied by the total number of Rooms in each Hotel.
- 9. <u>Bulk-Billed HBO Subscribers</u>: If Affiliate distributes the HBO Service to a multi-unit dwelling consisting of ten or more dwelling units for reception by HBO Subscribers on a non-optional, bulk-billing basis, then for purposes of calculating the payment due to HBO, each such dwelling unit shall be deemed an HBO Subscriber (a "Bulk-Billed HBO Subscriber") whether or not such unit is actually receiving the HBO Service. The HBO Service Charge shall be \$3.00 per Bulk-Billed HBO Subscriber.
- 10. HBO Service Subscriber Calculations: For purposes of calculating the monthly HBO Service Charges, the number of each category of HBO Subscribers (i.e., HBO Primary Subscribers, Second Sets, Bulk-Billed HBO Subscribers and TVRO Subscribers), Hotel Rooms and units in Institutions in each Cable Television System shall be determined by adding the number of each such category of HBO Subscribers, Hotel Rooms and units in Institutions, respectively, in each such System on the first and last days of the month and dividing the resulting sum by two (2), or by such other method of calculation as HBO may from time to time advise Affiliate in writing.